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Commissioner of Department of Business Oversight

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CONSENT ORDER
)	
JB BROTHERS, INC. dba POKE BAR)	
)	
Respondent.)	
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)	

This Consent Order is between the Commissioner of Business Oversight (Commissioner) and Respondent JB Brothers, Inc. dba Poke Bar (JB Brothers) (collectively, the parties), and is made with respect to the following facts:

I.
RECITALS

A. The Commissioner is authorized to administer and enforce the provisions of the Franchise Investment Law (Corp. Code, § 31000 et seq.) (FIL) and the rules and regulations promulgated thereunder which control the registration, offer and sale of franchises in California.

1 B. JB Brothers is a California Corporation organized on January 6, 2015 with a principal
2 place of business located at 8539 West Sunset Boulevard #5, West Hollywood, California 90069. JB
3 Brothers does business under the name Poke Bar and under the registered trademark POKE BAR
4 Dice & Mix.

5 C. The President of JB Brothers is Yoon Ho Ju; the Principals of JB Brothers are Jeong
6 Hi Ju and Jason Park. Jason Park is authorized to enter into this Consent Order on behalf of JB
7 Brothers.

8 D. From March 2016 to April 2017, JB Brothers executed eight written agreements
9 entitled "License Agreement" that constitute franchise offerings and sales in California. JB Brothers
10 was not registered to offer or sell franchises under the FIL and was not exempt from registration
11 under Corporations Code section 31110.

12 E. On May 15, 2017, JB Brothers filed a franchise registration application and
13 voluntarily notified the Commissioner that it offered and sold the eight unregistered franchises and
14 that it intends to be registered in California. On July 6, 2017, the Commissioner issued an Order
15 approving the franchise registration application of JB Brothers, Inc. dba Poke Bar.

16 F. On September 22, 2017, the Commissioner issued an Order Approving a Notice of
17 Violation pursuant to Corporations Code section 31303, which provides that a franchisee's right of
18 action under Corporations Code section 31300 must be filed no later than 90 days after the delivery
19 of the Notice of Violation (Notice Period). JB Brothers informed the Commissioner that no
20 franchisee invoked their right of action within the Notice Period.

21 G. The Commissioner informed JB Brothers of her intent to order JB Brothers to: (1)
22 desist and refrain from offering and selling unregistered franchises in California, and (2) pay
23 administrative penalties pursuant to Corporations Code section 31110 (Enforcement Action).

24 H. JB Brothers informed the Commissioner of its intent to cooperate with the
25 Commissioner to remedy any past violations and consent to entry of this Consent Order.

26 I. The Commissioner finds that this Consent Order is appropriate, in the public interest,
27 and consistent with the purposes fairly intended by the policy and provisions of the FIL.
28

1 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
2 forth herein, the parties stipulate as follows:

3 **II.**

4 **TERMS**

5 1. Purpose. The Consent Order resolves the Commissioner's investigation of JB
6 Brothers' violations of the FIL, avoids the expense and uncertainty of a hearing or other litigation,
7 protects consumers, is in the public interest, and is consistent with the purposes, policies, and
8 provisions of the FIL.

9 2. Desist and Refrain Order. JB Brothers stipulates that it engaged in the offer and sale
10 of franchises in this state that were referred to as "License Agreement," which were subject to
11 registration under the FIL, without the offers first being registered or exempt in violation of
12 Corporations Code section 31110. Pursuant to Corporations Code section 31406, JB Brothers is
13 hereby ordered to desist and refrain from the further offer or sale of franchises in California unless
14 and until the offers have been duly registered under the FIL or are otherwise exempt.

15 3. Administrative Penalty. Pursuant to Corporations Code section 31406, the
16 Commissioner hereby issues a citation and assesses an administrative penalty in the amount of
17 \$2,500.00. JB Brothers agrees to pay the administrative penalty of \$2,500.00. The penalty of
18 \$2,500.00 shall be due 15 business days from the effective date of this Consent Order and shall be
19 made payable to the Commissioner in the form of a check or Automated Clearing House deposit to
20 the "Department of Business Oversight," and transmitted to the attention of: Accounting-
21 Enforcement Division, Department of Business Oversight, 1515 K Street, Suite 200, Sacramento,
22 California 95814. Notice of payment shall be sent to Kelly Suk, Counsel, 320 West 4th Street, Suite
23 750, Los Angeles, California 90013.

24 4. Finality of Order. JB Brothers agrees to comply with this Consent Order and
25 stipulates that the Consent Order is deemed final. This Consent Order is binding on all heirs, assigns
26 and/or successors in interest.

27 5. Remedy for Breach. In the event JB Brothers fails to comply with the terms of this
28 Consent Order, JB Brothers agrees that this Consent Order may be converted to an enforceable civil

1 judgment for the entire administrative penalty amount of \$2,500.00. JB Brothers further agrees that
2 such civil judgment may be entered by the court on an *ex parte* basis without further notice or hearing
3 to JB Brothers.

4 6. Waiver of Hearing Rights. JB Brothers acknowledges that the Commissioner is ready,
5 willing, and able to proceed with the filing of an administrative enforcement action on the charges
6 contained in this Consent Order, and JB Brothers hereby waives the right to a hearing, and to any
7 reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, JB
8 Brothers further expressly waives any requirement for the filing of a pleading that may be afforded
9 by Government Code section 11415.60, subdivision (b); the California Administrative Procedure Act,
10 the California Code of Civil Procedure, or any other provision of law; and by waiving such rights, JB
11 Brothers effectively consents to this Consent Order becoming final.

12 7. Future Actions by the Commissioner. The Commissioner reserves the right to bring
13 any future action against JB Brothers or any of its partners, owners, officers, directors, shareholders,
14 employees, or successors for any and all future violations of the FIL. This Consent Order shall not
15 serve to exculpate JB Brothers or any of its partners, owners, officers, directors, shareholders,
16 employees, or successors from liability for any and all future violations of the FIL that may arise or
17 occur after the date of the Consent Order.

18 8. Third Party Action. This Consent Order does not create any private rights or remedies
19 against JB Brothers, create any liability for JB Brothers or limit defenses of JB Brothers for any
20 person or entity not a party to this Consent Order.

21 9. Full and Final Settlement. The parties hereby acknowledge and agree that this
22 Consent Order is intended to constitute a full, final and complete resolution of the allegations
23 contained in the Recitals. No further proceedings or actions will be brought by the Commissioner
24 upon those contentions, excepting therefrom any proceeding to enforce compliance with the terms of
25 this Consent Order, or action if such proceeding or action is based upon discovery of new and further
26 violations of the CFL which do not form the basis for this Consent Order or which were knowingly or
27 willfully concealed from the Commissioner by JB Brothers. Further, this Consent Order may be
28 revoked and the Commissioner may pursue any and all remedies available under law against JB

1 Brothers if the Commissioner later discovers that JB Brothers knowingly or willfully withheld
2 information used and relief upon in this Consent Order.

3 10. Commissioner's Duties. The parties acknowledge and agree that nothing contained in
4 this Consent Order shall operate to limit the Commissioner's ability to assist any other agency, (city,
5 county, state or federal) with any prosecution, administrative, civil or criminal, brought by any such
6 agency against JB Brothers or any other person based upon any of the activities alleged in these
7 matters or otherwise.

8 11. Bankruptcy. JB Brothers agrees the facts and violations set forth in the Recitals
9 above, in this Consent Order may be taken as true without further proof in any bankruptcy case or
10 subsequent civil litigation the Department may pursue to enforce its rights to any payment or money
11 judgment under the terms of this Order, including but not limited to, any nondischargeability
12 complaint in any bankruptcy proceeding and that this Order shall have collateral estoppel effect in
13 any bankruptcy case.

14 12. Waiver, Amendment, and Modification. No waiver, amendment, or modification of
15 this Consent Order will be valid or binding unless it is in writing and signed by all parties affected by
16 it. Waiver of a provision of this Consent Order shall not operate to waive any other provision.

17 13. Integration. This Consent Order is the final written expression and the complete and
18 exclusive statement of all the agreements, conditions, promises, representations, and covenants
19 between the parties with respect to the subject matter and supersedes all prior discussions between the
20 parties, their representatives, and any other person. Each of the parties represents, warrants, and
21 agrees that in executing this Consent Order it has placed no reliance on any statement, representation,
22 or promise of any other party, or any other person or entity not expressly set forth herein, or upon the
23 failure of any party or any other person or entity to make any statement, representation or disclosure
24 of anything whatsoever. The parties have included this clause to preclude any claim that any party
25 was in any way fraudulently induced to execute this Consent Order and to preclude the introduction
26 of parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Order

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14. Headings. The headings to the paragraphs of this Consent Order are for convenience only and do not affect its meaning.

15. No Presumption Against Drafting. The parties acknowledge they have had the opportunity to draft, review and edit the language of this Consent Order. No presumption for or against any party arising out of drafting all or any part of this Consent Order will be applied in any action relating to, connected, to, or involving this Consent Order. The parties waive the benefit of California Civil Code section 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

16. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it has received independent advice from its attorney(s) and/or representatives with respect to the advisability of executing this Consent Order.

17. Effective Date. This Consent Order shall not become effective until signed by all parties and delivered by the Commissioner's counsel by email to Theresa Woo at twoo@mcattorneygroup.com.

18. Counterparts. This Consent Order may be executed in one or more counterparts, each of which shall be an original but all of which, together, shall be deemed to constitute a single document.

19. Settlement Authority. Each signator hereto covenants that he or she possesses all necessary capacity and authority to sign and enter into this Consent Order on behalf of the named party.

20. Public Record. JB Brothers hereby acknowledges this Consent Order is a public record.

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1 IN WITNESS WHEREOF, the parties have approved and executed this Consent Order on the
2 dates set forth opposite their respective signatures.

3
4 Dated: 3/26/18

JAN LYNN OWEN
Commissioner of Business Oversight

5
6
7 By: _____
8 MARY ANN SMITH
9 Deputy Commissioner
10 Enforcement Division

11 Dated: 3/23/18

JB BROTHERS, INC., dba POKE BAR

12
13
14 By: _____
15 JASON PARK
16 Principal